

## **SUBCHAPTER 12K - PARKS AND RECREATION TRUST FUND GRANTS FOR LOCAL GOVERNMENT**

### **SECTION .0100 - GENERAL PROVISIONS**

#### **15A NCAC 12K .0101 PURPOSE**

The Parks and Recreation Trust Fund (PARTF), pursuant to G.S. 113-44.15(b)(2), is authorized to establish a matching grants program for qualified local governmental units for local park and recreation purposes. Annually, 30 percent of funds from PARTF will be allocated to local governmental units on a dollar-for-dollar basis. Grants shall be awarded by the Parks and Recreation Authority (Authority). The purpose of this Section is to set forth rules to govern the program.

*History Note: Filed as a Temporary Adoption Eff. November 1, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Authority G.S. 113-44.15;*  
*Eff. April 1, 1995;*  
*Amended Eff. August 1, 1998.*

#### **15A NCAC 12K .0102 ELIGIBLE APPLICANTS**

All county governments and incorporated municipalities of the State of North Carolina are eligible to submit applications. Public authorities, as defined by G.S. 159-7, are eligible applicants if they are authorized to acquire land or develop facilities for public recreation purposes.

- (1) Eligible applicants may apply jointly for a project.
- (2) School administrative units may submit a joint application with an eligible applicant for funding of facilities.

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*Amended Eff. August 1, 1998;*  
*Temporary Amendment Eff. December 9, 2002;*  
*Amended Eff. April 1, 2003.*

#### **15A NCAC 12K .0103 FUNDING CYCLE**

Annual funding schedule dates shall be the following:

- (1) An announcement letter describing the funding schedule and how to apply shall be mailed to all eligible applicants by September 30. This information shall be made available to other interested parties who contact the Department of Environment and Natural Resources (Department) at: NC Division of Parks and Recreation, PO Box 27687, Raleigh, North Carolina 27611-7687.
- (2) Local governments may request a maximum of five hundred thousand dollars (\$500,000) in PARTF assistance with each application.
- (3) Applications shall be received by the Department or its designee by 5:00 p.m. on January 31. If the deadline falls on a weekend or holiday, applications are due by 5:00 p.m. on the following business day.
- (4) The Authority shall meet within 120 days of the application deadline to select projects for funding. The Authority shall meet within 30 days after the end of the fiscal year to select projects for funding using revenues credited to PARTF during the fourth quarter.

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#### **15A NCAC 12K .0104 APPLICATION SCHEDULE**

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#### **15A NCAC 12K .0105 EVALUATION OF APPLICATIONS**

- (a) Each completed application shall be evaluated by the Department or its designee on the information provided in the application and in accordance with the PARTF criteria described in this Rule.
- (b) The Authority shall review the project evaluations and other relevant data prepared by the applicant and by Department staff. The Authority shall approve projects for funding.
- (c) If applicable to the project, the general criteria in Paragraph (d) of this Rule shall be addressed by the applicant. The Department or its designee shall review all applications for completeness. Incomplete applications shall be returned to the applicant.
- (d) The following general criteria shall be used to evaluate projects.
  - (1) New public recreation facilities provided by the project;
  - (2) The degree of local recreational planning for the project and how the specific elements in the project conform to the plan(s);
  - (3) The acquisition or the conservation of unique natural, cultural, recreational, or scenic resources;
  - (4) The level of public involvement in developing and supporting the project;
  - (5) The applicant's commitment to operating and maintaining the project; and
  - (6) The suitability of the site for the proposed project development.
- (e) The Authority shall also consider the following factors to evaluate projects: the geographic distribution of projects, the presence or absence of other funding sources, the population of the applicant, the level of compliance with prior grant agreements, the amount of funds available, and the amount of funds requested.

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#### **15A NCAC 12K .0106 GRANT AGREEMENT**

- (a) Upon Authority approval, a written agreement shall be executed between the grant recipient(s) and the Department.
- (b) The agreement shall define the Department's and grant recipient's responsibilities and obligations, the project period, project scope and the amount of grant assistance.
- (c) The approved application and support documentation shall become a part of the grant agreement.
- (d) State Clearinghouse environmental review comments made as a result of State Environmental Protection Act (SEPA) application review requirements shall be addressed by the applicant prior to execution of the project agreement. Projects judged to have a significant environmental impact shall submit an environmental assessment as required by SEPA.
- (e) The grant agreement may be amended upon mutual consent and approval by the Department and the grant recipient(s). The grant recipient(s) shall submit a written request to the Department. The Department shall approve the amendment if local circumstances justify the amendment request.
- (f) Projects may not begin until the Department and grant recipient(s) sign the agreement unless a waiver has been requested by the applicant in writing and approved by the Authority or its executive committee. Waivers may be granted only for land acquisition projects requiring action prior to the anticipated signing of the agreement. A waiver shall be in effect for 18 months from the date of approval. A project receiving a waiver shall not receive preferential treatment in funding decisions.
- (g) Following execution of the grant agreement, the Department shall reimburse the grant recipient for expenditures related to the project scope. All reimbursements shall be approved by the Department and shall total an amount that is less than or equal to the grant amount. The Department shall approve reimbursement requests for expenditures that are related to the project scope and occur during the project period. This provision is effective after the 2002-03 grant cycle.
- (h) Complete accounting records including a certified project data sheet and performance report verifying eligible costs shall be submitted by the grant recipient(s) to the Department for approval prior to or at the time of the close-out inspection. The Department shall approve the accounting when the records are consistent with the project agreement and budget.

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Temporary Amendment Eff. April 4, 2000;  
Amended Eff. June 1, 2006; April 1, 2003; April 1, 2001.

#### **15A NCAC 12K .0107 MATCHING REQUIREMENTS**

- (a) The applicant shall match PARTF funds on a dollar-for-dollar basis.
- (b) The appraised value of land that will be donated to the applicant may be used to match the PARTF grant.
- (c) The donor of the land must be an individual or private organization.
- (d) If a landowner sells land to the applicant for less than the appraised value, the amount of the donation is the difference between the appraised value and the amount paid by the applicant.
- (e) The value of capital improvements that are located on the donated land and will be used for public recreation may be included in the value of the donation.
- (f) Land that is transferred to the applicant due to a statute or rule is not considered a donation.
- (g) The applicant must receive a grant and sign the grant agreement before taking title to donated land.
- (h) Rule .0106 of this Section, of the PARTF administrative rules titled "Grant Agreement" also applies to donated land used as matching funds.

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#### **15A NCAC 12K .0108 ELIGIBLE PROJECTS AND COSTS**

- (a) PARTF grants are awarded to grantees for projects that are for the sole purpose of providing local park and recreation opportunities to the public. Grantees may receive funds for the following types of projects:
  - (1) Acquisition. Fee simple acquisition of real property for future recreational development and to protect areas with natural or scenic resources.
    - (A) Grantees acquiring property for recreation development have up to five years from when the Authority and the applicant sign the grant agreement to begin developing recreation facilities.
    - (B) Grantees acquiring property to protect areas with natural or scenic resources must open these areas to the general public to the extent that the resources will not be impaired.
  - (2) Development. Projects for the construction, expansion, and renovation/repair of the following:
    - (A) Primary facilities including outdoor and indoor recreation facilities. Examples include camping facilities, picnic facilities, sports and playfields, trails, swimming facilities, boating/fishing facilities, spectator facilities, and gymnasiums.
    - (B) Support facilities and improvements such as roads, parking areas, accessibility features, utilities, landscaping, and other infrastructure projects, that would have little or no recreational value without the primary recreation facilities.
- (b) Other criteria for determining eligible projects and costs include:
  - (1) Only development on or acquisition of a single project site is eligible for PARTF assistance.
  - (2) Utility lines developed with PARTF assistance shall be placed underground.
  - (3) The following costs are eligible within the limits that are identified.
    - (A) Land acquisition costs such as appraisals, surveys, title work, and attorney fees.
    - (B) Construction costs such as site planning, design drawings, construction drawings, preparing cost estimates, architectural and engineering fees, permits, construction management, and project inspection.

- (C) The cost of preparing an application.
- (D) The costs in Parts (A) through (C) of this Subparagraph shall not exceed 20 percent of the total cost of the project. These costs may be incurred within two years of the application deadline as well as during the project period.
- (E) A contingency may be included in the development cost estimates, but shall not exceed five percent of total development costs.
- (4) PARTF-assisted facilities on school property shall not be recreational facilities generally provided by the school for the use of their students.

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#### **15A NCAC 12K .0109 SITE CONTROL AND DEDICATION**

- (a) Land acquired with PARTF assistance shall be dedicated in perpetuity for local park and recreation purposes for the use and benefit of the general public. The dedication shall be recorded in the public property records by the grantee.
- (b) The site of a PARTF project for development shall be controlled (e.g. fee simple ownership or long-term lease) by the grantee by the closing date of the application submission period. Any lease agreement shall extend for a minimum of 25 years unless the property is the subject of a federal, state, or local leasing arrangement which provides assurance that 25 years of public recreational use will be maintained.
- (c) Grantees shall assure that PARTF assisted development facilities are maintained and managed for public recreation use for a minimum period of 25 years after the completion date set forth in the grant agreement.
- (d) PARTF-assisted land and facilities shall not be converted to uses that are other than public recreation without approval by DENR, in the following manner:
  - (1) A grant recipient shall notify DENR and request approval before any conversion occurs.
  - (2) The grant recipient shall address issues of local concern prior to forwarding a conversion request to DENR.
  - (3) DENR shall deny the request if it determines that the grantee has reasonable alternatives available to avoid the conversion.
  - (4) All conversions shall be mitigated with measures approved by DENR with advice from the Parks and Recreation Authority.
  - (5) The primary mitigation for a conversion is to have the grantee replace, at its own expense, land acquired with PARTF assistance with land of equal current fair market value and recreational usefulness. Facilities built with PARTF assistance shall be replaced with facilities of equal current replacement value, and recreational usefulness. Replacement areas shall also be within the grantee's service area; provide or be part of a viable recreation area; and be to the maximum extent possible, consistent with all current application requirements for a new PARTF application.
  - (6) Replacement property and facilities shall be encumbered by the same obligations as specified in the project agreement and rules for the converted property or facility.
  - (7) If DENR determines that the local government cannot reasonably replace the land or facilities, DENR may mitigate the conversion by the grantee repaying PARTF with funds equal to the current value of the land or facilities.
  - (8) DENR shall include provisions on conversions in all grant agreements.
- (e) A conversion is defined as the use of PARTF-assisted land or facilities for a purpose other than public recreation.
- (f) If PARTF-assisted facilities are built on public school property, the applicant(s) shall submit an agreement with the application describing that the facilities will be available to the general public during non-school hours. Projects on land owned by a school shall have sign(s) installed informing the public that the facilities are open to the general public. These signs shall also indicate the times when the facilities are reserved exclusively for school use.
- (g) Failure by the grantee(s) to comply with the provisions of this Section or the project agreement may result, in addition to any other legal remedies, in the Authority on behalf of the Department declaring the grantee(s) ineligible for further participation in the PARTF until such time as compliance has been obtained.

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**15A NCAC 12K .0110 INSPECTIONS**

- (a) The Department or its designee shall perform at least one progress inspection and a close-out inspection of the project site to ensure compliance with the grant agreement and eligibility of the grantee(s) for future program participation.
- (b) Grantees will be responsible for conducting periodic inspections (at least one every five years) to ensure compliance with the grant agreement and 15A NCAC 12K .0109 and submitting an inspection form with an affidavit verifying its content to the PARTF program office.
- (c) The Department or its designee will conduct random inspections to verify program compliance.

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